

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Eric Smith,

Plaintiff,

vs.

State of North Dakota, Emily Erickson,  
Cass County of North Dakota, Susan  
Solheim, official/unofficial capacity, Scott  
Griffeth, official/unofficial capacity, and  
Lindsey Froehlich,

Defendants.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Case No. 3:19-cv-232

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The Plaintiff, Eric Smith, initiated this proceeding pro se and in forma pauperis on October 23, 2019. Doc. No. 4. Pursuant to 28 U.S.C. § 1915(e)(2), the court may sua sponte review an in forma pauperis complaint prior to service on defendants. If the court determines the action is frivolous, malicious, fails to state a claim, or seeks monetary relief against a defendant immune from such relief, the court must dismiss the complaint.

After Mr. Smith filed his complaint with the Court, Magistrate Judge Alice R. Senechal reviewed the complaint, consistent with 28 U.S.C. § 1915(e)(2). On December 4, 2019, Magistrate Judge Senechal issued a Report and Recommendation, recommending that the Plaintiff's complaint be dismissed with prejudice. Doc. No. 9. Objections to the Report and Recommendation were to be filed with the Court by December 18, 2019. Mr. Smith filed an objection to the Report and Recommendation and a motion for hearing on December 18, 2019. Doc. Nos. 10 and 11.

The Court has carefully reviewed the Report and Recommendation, Mr. Smith's objection, relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. Accordingly, the Court **ADOPTS** the Report and Recommendation (Doc. No. 9) in its entirety. The Plaintiff's complaint is **DISMISSED** without prejudice, and the Plaintiff's motion for hearing (Doc.

No. 11) is **DENIED AS MOOT**. The Court further finds that any appeal may not be taken in forma pauperis, as any appeal would be frivolous and could not be taken in good faith.

Let judgment be entered accordingly.

**IT IS SO ORDERED.**

Dated this 19th day of December, 2019.

/s/ Peter D. Welte  
Peter D. Welte, Chief Judge  
United States District Court